



May 22, 2023

VIA ECF

Hon. Rebecca Beach Smith
United States District Judge
U.S. District Court for the Eastern District of Virginia
Walter E. Hoffman
United States Courthouse
600 Granby Street
Norfolk, VA 23510

Re: *In re: Zetia (Ezetimibe) Antitrust Litigation*, MDL No. 2:18-md-2836 and *United Healthcare Servs., Inc. v. Merck & Co., et al.*, No. 2:20-cv-1005 – Plaintiff United Healthcare Services, Inc.’s Notice Regarding Forthcoming Motion for Remand Pursuant to the Court’s May 3, 2023 Order

Dear Judge Smith:

I write on behalf of Plaintiff United HealthCare Services, Inc. (“United”) regarding the Court’s Order dated May 3, 2023 (ECF No. 2121) directing United and the other “Opt-Out Plaintiffs” to “file a motion to remand their action[s] with the [Judicial] Panel on Multidistrict Litigation [‘JPML’] within thirty (30) days of this Order,” which is next Friday, on June 2, 2023.¹

According to JPML Rule 10.1(b), “Typically, the transferee judge recommends remand of an action, or a part of it, to the transferor court at any time by filing a suggestion of remand with the Panel,” but the JPML also has discretion to remand actions by motion of any party. Because the JPML is “reluctant to order a remand absent the suggestion of the transferee judge, a motion to remand “must include . . . [a]n affidavit reciting whether the movant has requested a suggestion of remand and the judge’s response” and a statement “whether the parties have completed common discovery and other pretrial proceedings.” JPML Rule 10.3(a). United writes only to alert the Court that it feels obligated to inform the JPML that there are certain pretrial matters common to the Opt-Out Plaintiffs’ cases that have not yet been resolved. Those matters are Defendants’ motions to dismiss claims arising from purchases of Vytarin, as well as other certain state law claims (ECF Nos. 1282, 1520, 1522), and discovery related to those issues.

If the Court has any concerns, United can make itself available to answer any questions the Court may have. Otherwise, United will timely file the motion as directed.

¹ United does not join the other Opt Out Plaintiffs’ Motion Seeking Clarification of the Court’s May 3, 2023 Order filed today (ECF No. 2128).



Respectfully submitted,

s/ Amy L. Neuhardt

Amy L. Neuhardt (SBN 88263)

Counsel for United HealthCare Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send an email notification of such filing to all counsel of record who have made a formal appearance.

Dated: May 22, 2023

s/ Amy L. Neuhardt

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